

**Applicant:** Richard Sanchez

**Agent:** NA

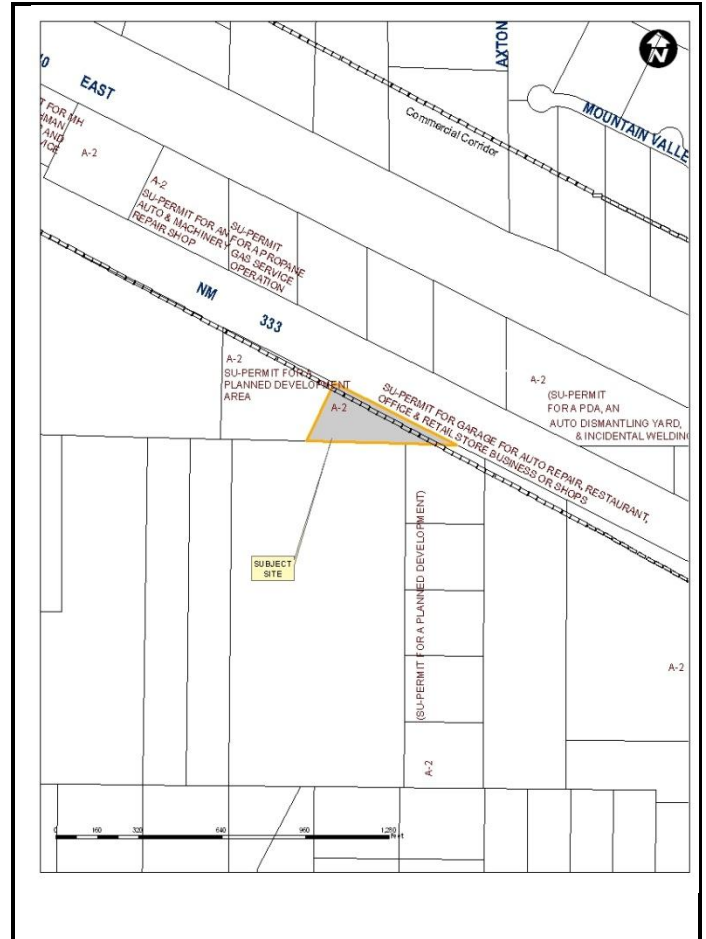
**Location:** 1342 NM 333

**Property Size:** Approximately 1.9 acres

**Existing Zone:** A-2/ Special Use Permit for Specific Uses Automotive Repair, Restaurant, offices, and retail store businesses or shops.

**Proposed Request:** Special Use Permit for Specific Uses Garages for Automotive Repair, Restaurants, offices, and retail sales as permissive in Section 14.B.2.a.(13)( a- n, p-s, u).

**Recommendation:** Approval



**Summary:** The applicant is requesting an amendment to an existing special use permit to expand the storage capabilities of the businesses on site.

The original Special Use Permit was granted in October 2005 for Specific Uses for Garage for Automotive Repair, Restaurant, Office, and Retail Store Business or Shops

**Staff Planner:** Mari Simbaña, Program Planner

**Attachments:**

1. Application
2. Land Use and Zoning Map
3. Letters of Support from Neighbors
4. Site Plan (Commissioners Only)

Bernalillo County Departments and other interested agencies reviewed this application from July 27, 2010 to August 9, 2010. Agency comments were used verbatim in preparation of this report, and begin on page 13.

**AGENDA ITEM NO.: 14**  
**County Planning Commission**  
**September 1, 2010**

CSU-20100022      Richard L. Sanchez requests approval to amend the Special Use Permit to allow storage sheds and temporary outdoor storage of pallets on Tract A1, Lands of Wayne Dow, located at 1342 NM 333, approximately ¼ mile west of NM 217, zoned A-2 with a Special Use Permit for Garage for Auto Repair, Restaurant, Office & Retail Sales, and containing approximately 1.90 acres. (J-35)

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

| <b>Site</b>  | <b>Zoning</b>   | <b>Land Use</b>                                   |
|--------------|---|---|
|              | A-2/ Special Use Permit for Garage for Auto Repair, Restaurant, Office & Retail Sales | Existing businesses                               |
| <b>North</b> | A-2   | Old US 66   |
| <b>South</b> | A-2/Special Use Permit for a Planned Development Area                                 | Entranosa Water and Wastewater Association Office |
| <b>East</b>  | A-2/Special Use Permit for a PDA, auto dismantling yard, and incidental welding       | Right of Way<br>Service/retail businesses         |
| <b>West</b>  | A-2/Special Use Permit for Planned Development Area                                   | Vacant  |

## **BACKGROUND:**

### **The Request**

The applicant is requesting an amendment to an existing Special Use Permit for Garage for Automotive Repair, restaurant, office, and retail store business or shops (CSU-50019).

The subject site is approximately 1.9 acres. There are a number of businesses presently in operation. The amendment is for the additional storage for the businesses. Mainly, this was prompted by the feed store's need for a protected storage for hay. In addition, the delivery of goods to the businesses entails the use of pallets which are kept on site and essentially considered open outdoor storage, not currently allowed under the existing special use permit. The applicant would like to designate a specific place for the keeping of these pallets and has indicated this on the site plan.

### **History**

On July 6, 1988, the County Planning Commission denied a request for a zone from A-2 to C-1 on a 4.33 acre property. The applicant filed an appeal on July 20, 1988. At the Board of County Commission hearing of August 16, 1988, the appeal was upheld and the commissioners granted a Special Use Permit for a service center, café, and country store. In the same year, this property was subdivided into two separate properties (LD-88-51). These two adjacent properties shared one Special Use Permit (CZ-88-35), with two different owners, until 2005. In October 2005, the subject site was granted a Special Use Permit for Garage for Automotive Repair, restaurant, office, and retail store business or shops.

### **Request Justification**

The applicant believes that the continuance of the Special Use Permit with the amendments will provide greatly needed services to the area.

### **Surrounding Land Use and Zoning**

Less than 2000 feet to the east is the intersection of NM 217 and Highway 66 East. The subject site is within a Commercial Corridor. Immediately to the west of the subject site is a vacant lot zoned A-2 with a Special Use Permit for a Planned Development Area (CSU-50014). To the north of the subject site runs Old Highway 66. Across this highway are several A-2 zoned properties with special use permits. To the east and across Old Highway 66 is an A-2 zoned property with a Special Use Permit for a Planned Development Area, auto dismantling yard, and incidental welding (CSU-77-65). To the west across the highway lot B has a Special Use Permit for Propane Gas Service Operation (CSU-85-73), lot 4 has a Special Use Permit for an Auto Machinery and Repair Shop (CZ-80-37, CZ-81-40, ZA-90086), lot 2 has a Special Use Permit for Watchman Caretaker and Sales and Service for Propane (CSU-50008, ZA-90075), and the lots further to the west have a Special Use Permit for Storage Units (CZ-91-20, CSU-93-22). To the southeast corner of the subject site is an A-2 zoned property with a Special Use Permit (CSU-88-12) for a Planned Development Area, which includes the Entranosa Water and Wastewater Association office. The residential properties south of the subject site are zoned A-2. Approximately one mile northwest of the site are a cluster of C-1 zoned properties.

## **APPLICABLE PLANS AND POLICIES:**

### **Albuquerque/Bernalillo County Comprehensive Plan**

**Policy 3** The stated Goal of the Rural Area is “to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns.” The following includes applicable policies:

**Policy 3.a.** of the Rural Area Goal states that “higher density development may occur at appropriate locations. Rural Area density patterns shall be more specifically defined through lower rank planning. Each higher density area is to be controlled by site development plan and is to be located well away from other such higher density areas.”

**Policy 3.b** states that “Development in Rural Areas shall be compatible with natural resource capacities, including water availability and capacity, community and regional goals and shall include trail corridors where appropriate.”

**Policy 3.f** states that “Development shall be carefully controlled in the East Mountain Area to prevent environmental deterioration, and to be compatible with the resource base and natural recreational and scenic assets.”

**Policy 3.g** states that “the following shall guide industrial and commercial development in the Rural Areas.”

- Small-scale, local industries, which employ few people and may sell products on the same premises, are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages.”

**Policy 6** Economic Development goal is, “to achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.”

**Policy 6.a** states that, “New Employment opportunities which will accommodate a wide range of occupational skills and salary levels shall be encouraged and new jobs located convenient to the areas of most need.”

**Policy 6.b** states that, “Development of local business enterprises as well as the recruitment of the outside firms shall be emphasized.”

**Policy 6.g** states that, “Concentrations of employment and Activity Centers should be promoted in an effort to balance jobs with housing and population and reduce the need to travel.”

## **East Mountain Area Plan Goals and Objectives**

### *General Land Use – 1*

#### Goal

- Protect the property rights of property owners while ensuring the health, safety, and welfare of all inhabitants.

### *Visual Resources – 4*

#### Goal

- Maintain and improve the existing visual quality of the East Mountain Area.

#### Objective

- Recognize the natural and visual environment, particularly features unique to the East Mountain Area as a significant determination in development decisions.

### *Economic And Commercial Development – 9*

#### Goal

- Achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.

#### Objectives

- Promote sound economic development that includes small-scale, local businesses.
- Provide new employment opportunities for area residents which will accommodate a wide range of occupational skills and salary levels.
- Promote tourism with careful attention to the potential for impacts of tourism on the East Mountain Area residents, rural character, and environment.

#### Policies

- 9.1 Commercial development shall occur in commercial corridors and nodes identified through an economic development study, sector plan, or master plan approved by Bernalillo County.
- 9.2 Prohibit new Special Use Permits for commercial and manufacturing that would be equivalent to M-2 zoning.
- 9.3 New commercial development shall be of an appropriate scale to meet the needs of the area residents and not degrade the environment.
- 9.4 Encourage small-scale business to develop with the potential for providing local employment.

#### Possible Techniques

- Establish commercial corridors and nodes to allow for the location of neighborhood-scale businesses that generate jobs and provide needed goods and services to EM residents while maintaining rural character.
- Focus light industrial and commercial development in selected areas with adequate utilities and transportation access and set apart from any existing or future residential neighborhoods or other incompatible land uses.
- Reserved portions of the community strictly for commercial activity to accommodate a variety of wholesale, retail, service and offices uses where the highest traffic volumes and greatest utility demands can be served and more extensive signage and outdoor display of materials will be expected and permitted.

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#### Rural Character

The most important issue identified by respondents on the 2003 questionnaire was the retention of rural character, confirmed by responses to other Survey questions. The vision of the East Mountain Area residents is to maintain this rural character. This is the focus of discussion in the Community Vision section which can be found in Appendix G. Rural character is defined by natural landscape, open spaces, undisturbed ecosystems, quietness, views of the landscape and the sky, limited traffic, large lots, privacy, and small-scale local businesses.

#### **Bernalillo County Zoning Ordinance**

**Resolution 116-86** defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans which have been adopted by the Board of County Commissioners.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:

1. An error in the original zone map.
  2. Changed neighborhood conditions, which justifies a change in land use or
  3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

## **Section 18. Special Use Permit Regulations.**

- A. By Special Use Permit after receipt of a recommendation from the Bernalillo County Planning Commission, the Board of County Commissioners may authorize the location of uses in any zone in which they are not permitted by other sections of this ordinance; the Bernalillo County Commission may likewise authorize the increase in height of buildings beyond the limits set by previous sections of this ordinance. With such permits, the

Bernalillo County Commission may impose such conditions and limitations as it deems necessary:

1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located;
2. To ensure that the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;
3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

**B.32.a**

(Office/Commercial) In certain situations based on unique conditions the owner may apply for any of the specific uses set forth in Sections 12, 13, 14, or 15 of this Ordinance. The special use for a specific use (office/commercial) may be granted if the owner/applicant proves by clear and convincing evidence that: (1) unique conditions exist that justify the request and (2) there is substantial support from neighborhood residents (or owners of property) within 200 feet of the site for the proposed special use.

**Section 19: Landscaping and Buffer Landscaping Regulations:**

Where a nonresidential zone which is hereafter developed for a business purpose abuts a residentially zoned property, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

- A. Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.
1. Sites of one acre or less:
    - a. There shall be a landscaped setback along all streets of no less than ten feet.
    - b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
    - c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback shall contribute toward this requirement.
  2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of no less than 15 feet. All other requirements same as 1.b. and 1.c. above.



- B. In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on sides abutting a single family residential use, except for those sides abutting public right-of-way.
- E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.
- G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.
- H. Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed in accordance with the Landscaping and Buffer Landscaping Regulations Section of this ordinance, shall be made to conform with this regulation within two years due to the amendment of the map or text of this ordinance.

## **ANALYSIS:**

### **Surrounding Land Use and Zoning**

The subject site is south of Highway 66 East and within a Commercial Corridor. Less than 2000 feet to the east is the intersection of NM 217 and Highway 66 East. Immediately to the west of the subject site is a vacant lot zoned A-2 with a Special Use Permit for a Planned Development Area (CSU-50014). Across this highway are several A-2 zoned properties with various special use permits.

### **Plans**

The subject site is within a commercial corridor as designated in the *East Mountain Area Plan*. The *East Mountain Trails and Bikeways Master Plan* proposes a bike route and paved trail within the NM 333 right-of-way.

### **Zoning Ordinance**

The request is compatible with the community in that it provides a combination of needed goods and services to the populace at a scale compatible with the area. It would also continue to generate work for local residents by having an adequate space to operate neighborhood businesses. The adjacent property owner, Entranosa Water and Wastewater Association has submitted a letter of support for the continued operation and amendment.

### **Agency Comments**

There were no adverse comments regarding the request. Environmental Health staff notes that the wastewater system must be upgraded to include a grease trap. Public Works staff is requesting a conceptual Grading and Drainage plan at this time and an final one as a

Condition of Approval. Additionally, staff will require a Traffic Scoping Report as a condition of approval.

### Analysis Summary

| Zoning                  |   |
|-------------------------|---|
| Resolution 116-86       | Proposed use provides a needed service to the community that is compatible with the rural goals set forth in the Comprehensive Plan and in the area plan. This is a unique opportunity to provide day to day services as well as jobs for local residents. This request has support from an adjacent neighbor.                          |
| Plans                   |   |
| Comprehensive Plan      | The request qualifies as a desirable use as it is a small-scale, local industry, employing few people and selling products on the same premises (Rural Area Policy G)   |
| East Mountain Area Plan | The request is a neighborhood-scale commercial use meeting the needs of local residents. (Policies 9.1 & 9.2)   |
| Other Requirements      |   |
| Environmental Health    | Wastewater system must be upgraded to include a grease trap.  |
| Public Works            | -At this time, a conceptual grading and drainage plan prepared by a New Mexico registered engineer is required.<br>-A formal Grading and Drainage Plan must be submitted as a Condition of Approval<br>-A letter verifying access must be obtained from NMDOT<br>-A traffic scoping report must be submitted as a Condition of Approval |

### Conclusion

The existing special use permit has been in operation since 2005 without adverse effects to the neighboring residents. The application mentions the added use of small engine repair business. However, this is already permissive under the existing special use permit. The retail component of the special use permit limits the type of uses but not the number or location of these uses. As long as the permitted businesses comply with all Bernalillo County regulations, they may reside in any of the individual spaces on site.

The goods and services provided via the existing special use permit meet the needs of the community. The addition of the storage capacity will enhance this function. Therefore, staff recommends approval of the request.

### RECOMMENDATION:

Staff recommends Approval of the request.

Mari Simbaña  
Program Planner

**FINDINGS:**

1. This request is for the approval of an amendment to the existing Special Use Permit to allow storage sheds and temporary outdoor storage of pallets on Tract A1, Lands of Wayne Dow, located at 1342 NM 333, approximately ¼ mile west of NM 217, zoned A-2 with a Special Use Permit for Garage for Auto Repair, Restaurant, Office & Retail Sales, and containing approximately 1.90 acres. (J-35)
2. The property is within the Rural Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.
3. This request is consistent with Resolution 116-86, in that this land use is more advantageous to the community in that it encourages a small-scale, locally-owned and operated industry that complements residential areas and reduces the need to travel as articulated in Policies 3.g, 6.a, 6.b & 6.g of the Albuquerque/Bernalillo County Comprehensive Plan.
4. This request is consistent with the (East Mountain Area Plan, Land use goal/objective 11c; Land Use policy #10) in that it maintains a community scale commercial use and continues a locally-owned and operated business.
5. This request is consistent with the health, safety, and general welfare of the residents of the County.
6. The Special Use Permit for Garage for Auto Repair, Restaurant, Office & Retail Sales (CSU-50019) is superceded by the amended Special Use Permit (CSU-20100022) for Specific Uses for Garages for Automotive Repair, Restaurants, offices, and retail sales as permissive in Section 14.B.2.a.(13)( a-n, p-s, u).

**CONDITIONS:**

1. Applicant shall maintain a 6-foot landscape buffer adjacent to residential uses. Landscaping for the Special Use Permit shall meet the standards outlined in the Zoning Ordinance, including:
  - a. There shall be a landscaped buffer along all streets of no less than 10 feet.
  - b. There shall be a landscaped buffer of no less than six (6) feet along the portions of the property adjacent to residential uses.Landscaping which dies shall be replaced by the property owner.
2. In the event of future residential uses are developed adjacent to the subject site, a solid fence at least six feet high shall be erected within 120 days from the date of residential construction and shall be erected on sides abutting any residential uses.

3. Applicant must provide a solid waste receptacle for use by building tenants.
4. The applicant shall pave the parking area and stripe the parking spaces.
5. Lighting shall be site-specific. Shielded or cutoff fixtures shall be provided so that no fugitive light crosses to adjacent lots.
6. No outdoor speakers or amplified sound systems shall be permitted.
7. Each business owner operating a use within the subject site shall obtain and maintain a Business License. The necessary business registration procedures shall be completed within sixty (60) days of final approval from the Board of County Commissioners. [Article II (Business Registration Fee) Bernalillo County Code].
8. Within sixty (60) days of final approval from the Board of County Commissioners, the applicant shall submit a Traffic Scoping Report to the Bernalillo County Public Works Division for review and approval. The applicant shall provide a copy of final approval to the Zoning Administrator for inclusion with the corresponding file.
9. Within sixty (60) days of final approval from the Board of County Commissioners, the applicant shall submit a Grading and Drainage Report to the Bernalillo County Public Works Division for review and approval. The applicant shall provide a copy of final approval to the Zoning Administrator for inclusion with the corresponding file.
10. The applicant shall submit to the Zoning Administrator for review and approval, a revised site plan consistent with the Conditions of this Special Use Permit, including an enclosed solid waste receptacle. These changes shall be submitted within 60 days from the date of final Board of County Commissioners approval.
11. The applicant shall comply with all applicable Bernalillo County ordinances and regulations.
12. The Special Use Permit shall be issued for ten (10) years.
13. The foregoing Conditions shall become effective immediately upon execution or utilization of any portion of the rights and privileges authorized by this Special Use Permit, and shall be strictly complied with within one year.

**BERNALILLO COUNTY DEPARTMENT COMMENTS**

Zoning Administrator:

No comment received

Environmental Health:

8/6/190

Property served by Entramosa Water and permitted wastewater system.

EH staff has placed a flag on this property indicating that wastewater system needs to be upgraded to include a grease trap.

Zoning Inspector:

8/16/10

Must comply with below listed comments.

1. A Zoning site inspection has shown that the property has two sign's advertizing the businesses on the property the owner must add these sign's to their amendment and get approval from the Mew Mexico State Department of Transportation for the sign's they are located in the Sate right away.

2. All businesses operating at this location must obtain a County Business License.

Building Department Manager:

No comment received

Public Works:

DRAN: 8/5/10

This property is subject to Chapter 38 of the Bernalillo County Code for Flood Damage Prevention and Storm Drainage. A conceptual grading and drainage plan prepared by a New Mexico registered engineer must be provided with this special use application. A formal grading and drainage plan will be required within 60 days of approval of this special use request and prior to any development or additional development of this property.

DRE: 8/4/10

Hwy 66 is NMDOT's. A letter from NMDOT stating that the access is adequate is required prior to approval.

Condition of Approvals: Traffic Scoping Report within 60 days of approval.

Fire Department

No comment received

Parks & Recreation:

8/5/10

Informational Comment: The East Mountain Trails and Bikeways Master Plan proposes a bike route and paved trail within the NM 333 right-of-way.

Sheriff's:

No comment received

**COMMENTS FROM OTHER AGENCIES**

MRGCOG:

No comment received

AMAFCA: 8/4/10

No comment.

City Planning Department:

Transportation Division

7/30/10:

No adverse comments.( Salgado)

City Transit:

8/9/10: No comments – (Rizvi)

ABCWUA Utility Development Section

8/3/10

No comment

City Environmental Health:

No comment received

City Open Space:

8/13/10

Open Space has no adverse comments

NM Department of Transportation

8/9/10

The NMDOT has no objection to the request for a special use permit. If the property owner has changed, then the NMDOT access permit will need to be updated.

Albuquerque Public School:

8/6/10

This will have no adverse impacts to the APS district.

Public Service Company of New Mexico

8/13/10

It is the applicant's obligation to determine if existing utility easements are on the property and to abide by any conditions or terms of those easements.

NM Gas Co.

7/29/30

No adverse comment

Village of Tijeras:

No comment received

**NEIGHBORHOOD ASSOCIATIONS:**

East Mountains District 5 Coalition